

REMARKS/ARGUMENTS

1. The Examiner rejected claims 15 and 20 under 35 U.S.C. § 102(b) as being anticipated by Ellison (U.S. Patent No. 4,615,934). Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rohrka et al. (U.S. Patent No. 5,221,569) in view of Doyle et al. (U.S. Patent No. 4,444,822). Claims 1-14 and 16-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellison. Claim 6 was objected to as having a typographical error. Reconsideration of this application is respectfully requested in view of the amendments and/or remarks provided herein.

Claim Objections

2. Claim 6 was objected to as having a typographical error. In particular, the Examiner noted that the claim from which claim 6 depends was incorrectly identified as claim 7 when it should have been claim 5. Applicant has herein amended claim 6 to more properly depend from claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw his objection to claim 6.

Rejection under 35 U.S.C. § 103(a)

3. Claims 15 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ellison. On page 2 of the Office Action, the Examiner asserts that Ellison discloses all the limitations of claims 15 and 20, including the limitation of “printed informational matter disposed on at least a portion of at least one surface of the sheet”, but then admits on page 5 of the Office Action that Ellison does not disclose printing informational matter on the sheet. With respect to whether or not Ellison discloses a sail that includes informational matter printed on the sheet, Applicant submits that the Examiner’s analysis on page 5 of the Office Action is correct.

Ellison completely fails to disclose or suggest a sail that includes printed informational matter disposed anywhere on any surface of the sheet from which the sail is fabricated. In fact, Ellison does not address printing on the sailcloth at all. As a result, Ellison cannot and does not anticipate the recitations of claim 15. In addition, Ellison is silent as to whether his reinforced sheet is opaque or not. Since, as evidenced by Doyle et al. (“Doyle”), sails are typically translucent to afford visibility (see col. 3, lines 18-25 of Doyle), Ellison cannot be construed to

disclose or suggest through its silence the use of an opaque sheet to form a sail. Consequently, Ellison cannot and does not anticipate claim 20.

Therefore, in view of the silence of Ellison with respect to various limitations of claims 15 and 20, Applicant submits that claims 15 and 20 are not anticipated by Ellison and respectfully requests that the Examiner withdraw his rejection to claims 15 and 20 under 35 U.S.C. § 102(b).

Rejections under 35 U.S.C. § 103(a)

4. Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rohrka et al. (“Rohrka”) in view of Doyle. The Examiner asserts that Rohrka discloses a sheet of material in which a polyester scrim is laminated between two webs of PVC vinyl. The Examiner admits that Rohrka does not disclose a sail that includes printed informational matter, the use of a scrim having yarn that is cross-hatched in a predetermined directional pattern, and processes for cutting the sheet into the shape of a sail and printing the informational matter onto the sheet. The Examiner then asserts that Doyle discloses the cross-hatched scrim yarn, but admits that Doyle does not disclose any printed informational matter on the sheet. Instead of citing any reference that discloses the use of printed informational matter on a sail or surface of PVC used in forming a sail, the Examiner relies solely on what the Examiner states is “common” knowledge to depict a manufacturer’s logo on a sail, such as at a sporting event. Applicant respectfully disagrees with the Examiner’s characterization of the claims of the present invention in view of the cited references and the Examiner’s purported knowledge. Nevertheless, Applicant has herein cancelled independent claim 8, and amended independent claims 1 and 15 to more clearly distinguish said claims over the teachings and suggestions of the cited references. In particular, Applicant has added the limitation that the informational matter on the sail remains viewably undistorted whether the sail material is in a planar orientation or an airfoil orientation. None of the cited references disclose or suggest such a limitation.

The Examiner effectively admits that none of the cited references discloses a sail or method for making a sail wherein informational matter is printed on the sail. Rather, in the second and third paragraphs on page 4 of the Office Action, the Examiner states that it is common for sails to depict either a manufacturer’s logo or other information and therefore it would have been obvious to print such matter on Rohrka’s sail. However, there is no teaching or

suggestion in the cited references of the desirability to modify Rohrka and/or Doyle by printing informational matter on the sail.

Based on Applicant's understanding as set forth on page 3, lines 11-14 of Applicant's specification, previous attempts to print or paint informational matter on a sail have proven less than adequate, resulting in distortion of the matter when the sail assumed an airfoil orientation under wind loading. Other known methods of placing information on sails required substantial labor, such as stitching or heat seaming, as discussed on page 4, lines 9-11 of Applicant's specification. Thus, without a prior art reference providing disclosure to the contrary, as of Applicant's date of invention, there was no so-called "common" way to *print* informational matter on a sail such that the printed matter remains viewably undistorted whether the sail is in a planar orientation or an airfoil orientation.

In addition, by preferably including an opaque barrier layer between the scrim and one or both webs of PVC or otherwise making the sail material opaque as recited in claims 6, 7, 13, 14, 16, and 20, the sail of the present invention facilitates optimal viewing of the information imprinted thereon and further allows information to be printed and separately viewed on both sides of the sail as recited in claims 10, 11, and 18. The cited references fail to disclose or suggest such an opaque barrier layer or otherwise opaque sail material. In fact, Doyle teaches away from the use of an opaque sail by expressly disclosing the use of a translucent sail (*see col. 3, lines 18-25*), and Rohrka discloses dying the individual films and/or adhesives of the sail with colorants (*see col. 3, lines 64-66*), but does not disclose or suggest that the colorants result in an opaque sail to facilitate viewing of imprinted informational matter. The cited references further fail to disclose or suggest printing informational matter on both sides of the sail. Thus, in summary, none of the cited references address the inclusion of informational matter on one or both sides of a sail or the fabrication of a sail to optimally host such informational matter.

Therefore, in view of the foregoing, Applicant submits that the pending claims are not disclosed or suggested by any of the cited references alone, in combination with each other, or in combination with common knowledge in the prior art prior to Applicant's date of invention. Accordingly, Applicant submits that all the pending claims are in proper condition for allowance and respectfully requests that all pending claims be passed to allowance.

5. Claims 1-14 and 16-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellison. The Examiner admits on page 5 of the Office Action that Ellison fails to disclose a sail containing printed informational matter and relies on the Examiner's official notice that imprinting informational matter onto a sail was common knowledge before Applicant's invention. Based on the reasons set forth in Section 4 above, the Examiner's reliance on official notice is misplaced because the printing that was performed on sails prior to Applicant's date of invention did not permit the printed matter to be remain viewably undistorted whether a sail was in a planar orientation or an airfoil orientation as is now recited in Applicant's independent claims 1 and 15. Ellison also fails to disclose or suggest various other limitations recited in Applicant's dependent claims, including, without limitation, an opaque barrier layer between the scrim and at least one web of PVC vinyl, an opaque sail, and informational matter printed on both sides of the sail. Accordingly, Applicant submits that claims 1, 3-7, 10-14, and 16-19 are not obvious in view of Ellison and respectfully requests that claims 1, 3-7, 10-14, and 16-19 may be passed to allowance.

Other Amendments to the Claims

6. Applicant has herein amended several of the dependent claims to recite additional patentable features of Applicant's invention. However, claims 14 and 19 were amended merely to change the independent claims from which they depend in view of the cancellation of claim 8. None of the amendments to claims 14 and 19 were intended to narrow the claims in any manner or were made for any purpose related to patentability. Applicant submits that all claim amendments are fully supported by Applicant's originally filed specification on at least page 3, line 11 through page 4, line 1; page 6, lines 18-19; page 8, lines 3-11 and in FIG. 7.

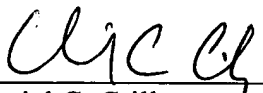
New Claims

7. Applicant has herein added three new claims, one independent and two dependent. Applicant has also cancelled a corresponding quantity of independent and dependent claims; thus, twenty claims remain pending, three of which are independent. As a result, Applicant submits that no additional fees are necessary for examination of the three new claims. New claim 23 incorporates the patentable limitation that the informational matter printed on the sheet of sail material is viewably undistorted whether the sheet of material is in a planar

orientation or an airfoil orientation. As noted above, such limitation is not disclosed or suggested by any reference of record. Claims 21 and 22 are drawn to a sail that is manufactured by assembling a plurality of sheets of a particular construction to form the sail. None of the cited references disclose or suggest a sail so constructed. Applicant's new claims are fully supported by Applicant's original specification at least on page 3, line 11 through page 4, line 1; page 7, lines 8-12 and page 8, lines 1-3. Accordingly, Applicant submits that the new claims are patentable over the references of record and requests issuance of a notice of allowance in connection therewith.

8. The Examiner is invited to contact the undersigned by telephone, facsimile or email if the Examiner believes that such a communication would advance the prosecution of the instant application. Please charge any necessary fees associated herewith, including extension of time fees (if applicable and not paid by separate check), to the undersigned's Deposit Account No. 50-1111.

Respectfully submitted,

By: 
Daniel C. Crilly
Attorney for Applicant
Reg. No.: 38,417
BRINKLEY, MCNERNEY,
MORGAN, SOLOMON & TATUM, LLP
200 East Las Olas Blvd., Suite 1900
Ft. Lauderdale, FL 33301
Phone: (954) 522-2200/Fax: (954) 522-9123
Email: dcc@brinkleymcnerney.com